IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2816 OF 2005

IN

SUIT NO. 2963 OF 2004

M/s National Buildings Construction Corporation Ltd. .. Plaintiff

V/s

M/s Royal Palm India Pvt. Ltd. .. Defendant

Mr.Amol Surve i/b Mr.A.V. Latne for the Plaintiff.

Mr.Niran Jani i/b Vigil Juris for the Defendant.

CORAM : D.G. KARNIK, J.

DATE : 16TH APRIL 2007

**P.C.** :

1. Heard the learned counsel for the Plaintiff and the Defendant.

2. This motion is taken out by the Plaintiff for restoration of Notice of Motion No.3052 of 2004 which was dismissed for non-prosecution. The learned counsel for the Plaintiff states that the advocate appearing for the Plaintiff was sick and, therefore, could not appear on the previous date and, therefore, the earlier motion was dismissed. The counsel for the Defendant has no

objection for the restoration of the motion. He, however, submits that the ad-interim order passed in the previous notice of motion, which stood vacated on the dismissal of the motion, should not be restored and the Plaintiff will be required to move the Court after notice to the Defendant. The submission is accepted.

3. In the circumstances, the motion is allowed and Notice of Motion No.3052 of 2004 is restored to file. However, the interim/ad-interim order, if any, passed in the motion earlier are not restored and it will be open to the Plaintiff to move the Court again for the purpose of interim/ad-interim relief after notice to the Defendant.

(D.G. KARNIK, J.)